

# Notice of Allowability

Application No.

10/765,630

Examiner

Kuo-Liang Peng

Applicant(s)

LAI ET AL.

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/26/04 IDS.
2. ☒ The allowed claim(s) is/are 25 and 27.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 1/26/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 0904
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### DETAILED ACTION

1. Applicants' preliminary amendment filed on January 26, 2004 was received.

#### *Examiner's Amendment*

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

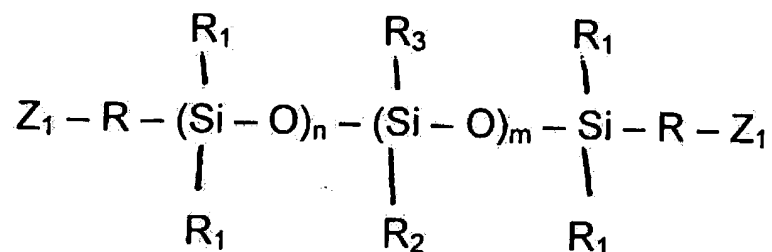
3. Authorization for this examiner's amendment was given in a telephone interview with Ms. Rita D. Vacca on September 3, 2004.

The application has been amended as follows:

Delete Claims 1-24, 26 and 28-29.

Replace Claim 25 with --

25. A method of using an ophthalmic device produced using a polymeric composition produced through the copolymerization of one or more prepolymers produced from one or more prepolymer precursors



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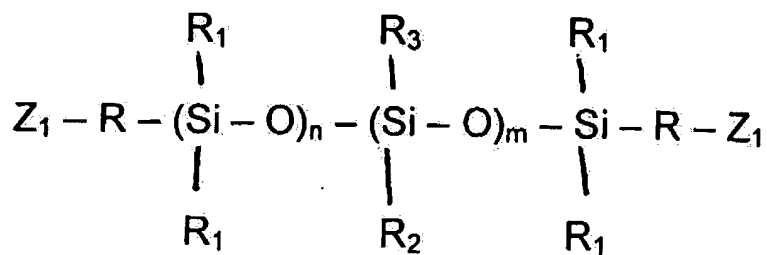
wherein the R groups may be the same or different saturated C<sub>1-10</sub> hydrocarbon substituents; the R<sub>1</sub> groups may be the same or different C<sub>1-10</sub> alkyl substituents; the R<sub>2</sub> groups may be the same or different selected from the group consisting of C<sub>1-10</sub> alkyl substituents, C<sub>1-10</sub> fluoroalkyl substituents, and C<sub>2-20</sub> alkyl-fluoroalkyl substituents; the R<sub>3</sub> groups may be the same or different C<sub>6-30</sub> aromatic substituents; n is a natural number; and m is a natural number greater than 4 representing the sum of siloxane moieties with randomly differing R<sub>1</sub>, R<sub>2</sub> and R<sub>3</sub> groups as defined above so as to have a molar ratio of aromatic substituents to alkyl substituents no less than 1:4 such that the prepolymer molecular weight is at least approximately 1000 and refractive index is at least approximately 1.45; and the Z<sub>1</sub> groups may be the same or different selected from the group consisting of -OH and -NH<sub>2</sub> with one or more aromatic monomers, an alkyl monomers or hydrophilic monomers, comprising:

making an incision in the cornea of an eye; and

implanting said ophthalmic device. --

Replace Claim 27 with --

27. A method of using an ophthalmic device produced using a polymeric composition produced from one or more prepolymer precursors



wherein the R groups may be the same or different saturated C<sub>1-10</sub> hydrocarbon substituents; the R<sub>1</sub> groups may be the same or different C<sub>1-10</sub> alkyl substituents; the R<sub>2</sub> groups may be the same or different selected from the group consisting of C<sub>1-10</sub> alkyl substituents, C<sub>1-10</sub> fluoroalkyl substituents, and C<sub>2-20</sub> alkyl-fluoroalkyl substituents; the R<sub>3</sub> groups may be the same or different C<sub>6-30</sub> aromatic substituents; n is a natural number; and m is a natural number greater than 4 representing the sum of siloxane moieties with randomly differing R<sub>1</sub>, R<sub>2</sub> and R<sub>3</sub> groups as defined above so as to have a molar ratio of aromatic substituents to alkyl substituents no less than 1:4 such that the prepolymer molecular weight is at least approximately 1000 and refractive index is at least approximately 1.45; and the Z<sub>1</sub> groups may be the same or different selected from the group consisting of -OH and -NH<sub>2</sub>, comprising:

making an incision in the cornea of an eye; and

implanting said ophthalmic device. --

*Allowable Subject Matter*

5. Claims 25 and 27 are allowed.

6. The following is an examiner's statement of reasons for allowance:

The present claims are allowable over the closest references for at least the following reason(s): Okawa (US 5 223 596), Cekada (US 3 624 190) and Lai (US 5 034 461).

Okawa does not teach or fairly suggest a polydiorganosiloxane having  $R_2R_3SiO_{2/2}$  units, where  $R_2$  is independently a  $C_{1-10}$  alkyl,  $C_{1-C10}$  fluoroalkyl or a  $C_{2-20}$  alkyl-fluoroalkyl group and  $R_3$  is independently a  $C_{6-30}$  aromatic group, e.g., a diphenylsiloxane-dimethylsiloxane copolymer. Furthermore, in the instant claims, the number of  $R_2R_3SiO_{2/2}$  units must be a natural number greater than 4. In addition, Okawa does not teach or fairly suggest a method of using an ophthalmic device prepared from a polymeric composition produced from the polydiorganosiloxane.

Cekada does not teach or fairly suggest that the polydiorganosiloxanes being end-capped with hydroxyalkyl groups or aminoalkyl groups or having methylphenylsiloxane units. In addition, Okawa does not teach or fairly suggest a

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method of using an ophthalmic device prepared from a polymeric composition produced from the polydiorganosiloxane.

Lai discloses a polydiorganosiloxane end-capped with hydroxyalkyl groups represented by formula c) (col. 3, line 44 to col. 4, line 50, col. 6, lines 2-7 and 31-43). However, Lai does not teach or fairly suggest a method of using an ophthalmic device prepared from a polymeric composition produced from the specific polydiorganosiloxane set forth in the present invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang Peng whose telephone number is (571) 272-1091. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached on (571) 272-1302. The

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fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**KUO-LIANG PENG**  
**PRIMARY EXAMINER**

klp  
September 3, 2004

Kuo-Liang Peng  
Primary Examiner  
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